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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the
27th February, 1991:—

I

BILL NO. LX OF 1990

A Bill to provide for the prevention of sexual harassment of women employees at their work places by their employers, superiors, colleagues or by any one connected with the work place and matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Sexual Harassment of Women Employees at their work Places Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the Context otherwise requires,—

(a) “appropriate Government” means in relation to the Centrally owned undertakings or departments, the Central Government and in relation to the other undertakings and departments the State Government;

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(b) "employer" means—

(i) in relation to an establishment which is under the control of the appropriate Government, a person or authority appointed by the appropriate Government for the supervision and control of employees or where no person or authority is appointed, the head of the department.

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed the Chief Executive Officer.

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of establishment or house and where such affairs are entrusted to any other person whether called a Manager, Managing Director, Managing agent or by any other name, such person;

(c) "sexual harassment" means and includes any unwanted verbal or gestural sexual advances, sexually explicit and derogatory statements or remarks, avoidable physical contacts, touching or patting, suggestive remarks, sexually slanted and obscene jokes, comments about physical appearance, compromising invitations, use of pornographic material, demands for sexual favours, threats, innuendoes, physical assault and molestation of and towards women workers by their male superiors, colleagues or any one who for the time being is in a position to sexually harass the women workers;

(d) "Women" means and includes a woman employed, whether directly or through any agency, for wages or for similar other considerations in any establishment, house or industry;

(e) "work place" means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an agricultural field;

(v) a hospital or nursing home;

(vi) a shop or business establishment;

(vii) a brick kiln;

(viii) a construction site;

(ix) any banking establishment;

(x) any Government, quasi Government establishment or department including telegraph office, post office, telephone exchange etc;

(xi) any private office or house;

(xii) any school, college, university or like institution;

(xiii) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(xiv) any other such place where a women is employed for any work whatsoever.

3. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force whoever sexually harasses a woman at a work place shall be punished with simple imprisonment for a term which may extend to five years or with fine which may extend to twenty thousand rupees or with both.

Punish-
ment
for
sexual
harass-
ment of
a woman.

4. Notwithstanding anything contained in any other law for the time being in force the onus of proving the innocence shall be on the accused and the sexually harassed woman shall have the right to lead evidence in rebuttal.

Burden
of proof.

5. Notwithstanding anything contained in any other law for the time being in force if an act of sexual harassment is committed at a work-place the supervisor, manager, and managing director shall have the joint responsibility towards the commission of sexual harassment in the organisation and section 34 of the Indian Penal Code shall be made applicable in their case:

Joint
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sibility
of the
employer
in the
offence
of sexual
harass-
ment at
a work
place.

Provided that if the harassed woman absolves the supervisor, manager or managing director no action shall be taken against them under this Act.

6. Notwithstanding anything contained in any other law for the time being in force the case of a sexually harassed woman at a work place shall be pleaded either by herself or with her consent by a women's organisation or the trade union of which she is a member.

Pleading
the case
of harass-
ed woman
worker.

7. The trial of an offence committed under this Act shall be held in camera if the harassed women so desires.

Trial to
be held
in
Camera.

STATEMENT OF OBJECTS AND REASONS

Women are nearly fifty per cent of the population of India. In almost every field of economic activity women form a large part of the work force. The number of working women is increasing everyday. At the work place women are compelled to work in the most disadvantageous service conditions. They are harassed sexually at the work place by their male colleagues, bosses, employers and others. Cases of sexual harassment of women at the work places occur but more often these are not reported for fear of social ostracism, family pressure or reprisal in the form of threats and discriminatory treatment. Though this offence like physical assault and molestation has been made punishable under the Indian Penal Code, yet working women feel insecure since all aspects of sexual harassment are not covered by that Code. Accordingly an urgent need is felt to deal with the situation more stringently. The Bill will therefore take care of the offences related to sexual harassment of women at the work place.

Hence this Bill.

KAMALA SINHA

II

BILL NO. IX OF 1991

A Bill to provide for the establishment of an Atomic Authority for the purposes of setting up an atomic power plant for generating electricity in the State of Bihar and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Bihar Atomic Authority Act, 1991.

(2) It shall come into force with immediate effect.

2. The Central Government shall establish an Authority to be called the Bihar Atomic Authority in the State of Bihar.

3. (1) The Authority shall consist of the following members, namely:—

(a) The Prime Minister, who shall be the *ex-officio* Chairman of the Authority;

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Bihar
Atomic
Authority.

Composi-
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the Autho-
rity.

(b) The Chief Minister of the State of Bihar or in his absence the Governor of the State of Bihar, who shall be the *ex-officio* Vice-Chairman of the Authority;

(c) Eighteen Scientists, nine to be nominated by the Central Government and nine by the State Government of Bihar in accordance with such procedure as may be prescribed by rules made under this Act; and

(d) One member, to be appointed by the Central Government in consultation with the Government of the State of Bihar, who shall be the Director of the Authority.

(2) The terms and conditions of the service of the members referred to in clauses (c) and (d) of sub-section (1) shall be such as may be prescribed by rules made under this Act.

(3) Subject to such rules as may be made by the Central Government in this behalf, the Authority may, for the purposes of enabling it to perform its functions or exercise its powers efficiently under this Act appoint such officers and other employees, as it may think fit, and determine their functions and conditions of service.

Funds of
the
Autho-
rity.

4. The funds of the Authority shall consist of,—

(a) Contributions, subscriptions and donations made to it by any person; and

(b) Annual grants made to it by the Central Government after due appropriation made by Parliament in this behalf.

Func-
tions of
the
Autho-
rity.

5. The functions of the Authority shall be to,—

(a) set up an atomic plant at an appropriate place in the State of Bihar;

(b) set up atomic power plant for generating electricity to meet the energy needs of the State;

(c) perform such other functions as may be incidental, or conducive to the discharge of its main functions.

Power
to make
rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There is acute shortage of electricity in the State of Bihar resulting in backwardness of the State. Electricity can be produced by using atomic energy and one of the richest areas in the world containing vital atomic raw-material is in the State of Bihar and the State has the richest Uranium deposits. Despite this no atomic power plant for producing electricity has been set up in Bihar so far.

This Bill seeks to establish an Atomic Authority in Bihar which will take appropriate steps for setting up of an atomic power plant in Bihar so that enough electricity is made available for industrial and domestic consumption in the State. It will boost the economy of the State and also generate employment opportunities there.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to establish the Bihar Atomic Authority. It is estimated that a sum of Rupees one hundred crores will be required from the consolidated fund of India initially to set up the Authority. A sum of Rupees Two crores per year will also be required to meet the recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to frame rules for carrying out the purposes of this Act. The delegation of legislative power is, therefore, of normal character.

III

BILL NO. VIII OF 1991

A Bill to provide for reservation of the posts in Government Services and Seats in educational institutions for persons belonging to economically weaker section of the society and for those living below the poverty line and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation of Posts in Government Services and Seats in Educational Institutions for Economically Weaker Section and people living below the poverty line Act, 1991.

Short
title and
commen-
cement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) “economically weaker section of the society” means a class of persons in the society irrespective of their religion or caste, whose income from all sources including the income of their family members does not exceed one thousand five hundred rupees per mensem;

Defini-
tions.

(b) "family" includes the husband, wife and dependent children;

(c) "Government Services" means services or posts in connection with the affairs of the Union and includes appointments in an undertaking of the Government of India or an undertaking or organisation carrying on any type of activity where fifty one percent of its capital has been contributed in any form by the Government of India;

(d) "People below poverty line" means a class of persons irrespective of their caste or religion whose income from all sources, including the income of their family members does not exceed one thousand rupees per mensem.

3. Notwithstanding anything contained in any other law for the time being in force, thirty percent of the posts in Government Services shall be reserved for candidates belonging to people below poverty line.

4. Notwithstanding anything contained in any other law for the time being in force twenty percent of the posts in Government Services shall be reserved for candidates belonging to economically weaker section of society.

5. Forty percent of seats in all educational institutions shall be reserved for candidates belonging to economically weaker section of society and for people below poverty line.

STATEMENT OF OBJECTS AND REASONS

At present reservation of posts in Government services has been made only for Scheduled Castes and Scheduled Tribes and other backward classes. The reservation for Scheduled Castes has been made for those castes which find place in the Constitution (Scheduled Castes) Order, 1950 and for reservation for other backward classes, the Mandal Commission recommendations are the basis which is on caste lines. It has created hatred and disaffection among the people particularly after the decision as the Government of the day to implement the Mandal Commission recommendations. Recently the country witnessed violence, arson, looting, killings, bandhs, destruction of public property and violent clashes between people belonging to different castes. If the present policy continues the society will be further divided on caste lines and the dreams of our great national leaders and Founding Fathers of our Constitution to make India a casteless society will be shattered and the very basis of our brotherhood will be sacrificed at the altar of casteism for narrow political gains by those who are at the helm of affairs of the Nation.

The fact is that there are poor people in every class and every caste. There is no difference of opinion that people of backward classes are very poor but the number of poor in other castes is also quite large and yet as per the existing rules the benefit of reservation is not available to these poor people and, therefore, they are unable to raise their standard of living even after forty-three years of independence.

Similarly, reservation of seats in educational institutions has also been made for the Scheduled Castes and Scheduled Tribes. But no such declaration has been made by the Government in cases of other backward classes which in itself is contradictory because in the absence of reservation in educational institutions the reservation in jobs is futile. Without proper education one cannot think of jobs. However, the present scheme of reservation has created doubts particularly in the minds of the student community with the result that they have adopted a path of confrontation.

In those circumstances it would be advisable and appropriate if economic condition of people, irrespective of their castes, is made the basis of reservation in Government Services and educational institutions. Such a provision will benefit the society as a whole and it will also be saved from disintegration on caste lines. In fact the people of backward classes or castes will benefit more if the reservation is made on economic basis.

It is, therefore, necessary that a law be enacted to provide for reservation for persons belonging to economically weaker sections of the society and for those living below poverty line.

Hence this Bill.

S. S. AHLUWALIA

IV

BILL NO. VI OF 1991

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title and
commen-
cement.

1. (1) This Act may be called the Companies (Amendment) Act, 1991.

(2) It shall come into force at once.

Amend-
ment of
section
43A.

2. In section 43A of the Companies Act, 1956, in sub-section (1A) for the words "less than such amount as may be prescribed" the words "less than rupees twenty five crores or such higher amount as may be prescribed" shall be substituted.

1 of 1956.

STATEMENT OF OBJECTS AND REASONS

At present under sub-section (1A) of section 43A, of the Companies Act, 1956 a private limited company can become a public limited company if its average annual turnover for the last three years crosses rupees five crores. This limit of rupees five crores was prescribed by the Government in 1938 through a notification. There is considerable increase in the prices of the products of the companies and the turnover has also increased mostly due to increase in the selling prices of the products of the companies during the period. As a result thereof a number of small private limited companies, shall become public limited companies by virtue of the notification issued in 1938 resulting in several restrictions imposed on them under the Companies Act as public limited companies.

Since Government have liberalised Industrial Policy and is keen to improve upon working of the companies it will be in the fitness of things if the ceiling is raised to twenty-five crores for the healthy growth of private limited companies in the country.

Hence this Bill.

S. S. AHLUWALIA

SUDARSHAN AGARWAL,
Secretary-General.

